

Protect Yourself from Rescission: The Insurance Industry's Deadly Trick

By Bill Daniels

You bought an insurance policy and it gave you peace of mind. You faithfully paid the premium, month after month. Then, you have a claim and the insurance company tells you the policy is no good. You are a victim of rescission. There is no coverage for you, no coverage for your family. What can you do?

Rescission is when insurance companies retroactively cancel policies and it is increasingly popular in the insurance industry as a way of beating legitimate claims and increasing insurance company profits at the expense of consumers. The problem has become so critical that it is a growing topic of news stories and comment. For example, the Los Angeles Times recently reported that a Blue Shield company audited by the California Department of Insurance revoked 1880 individual health policies in 2004 and 2005. The Department said that out of the sample it reviewed, more than half of the cancellations were handled improperly. Many think that reports such as this represent just the tip of the iceberg.

The documentary "Sicko," Michael Moore's indictment of the health insurance industry, includes a lengthy interview with a former insurance industry operative whose job was to look for a way to cancel policies when a claim is made. The segment is chilling. Essentially, rescission allows insurance companies to collect premium dollars month after month on policies where there are no claims and then cancel the policies where claims dollars should be paid out. It's like a bookie that keeps all the money on the bet he wins, then calls out the lawyers to defend his losses.

The original theory for allowing insurance companies to rescind policies was innocent. The idea was, if someone lied on their application and the company issued a policy it wouldn't have had it known the true facts, then the company should be able to back out of the deal.

Only, that's not what is happening. Modern rescission practices give the insurance companies a way to fatten their profits by doing their claims underwriting *after* they know they have to pay benefits. Dishonest companies are abusing the rescission doctrine to increase their profits. Left helpless are honest consumers who are ill or have suffered some type of loss and are usually at their weakest.

There are some things you can do to protect yourself and your family. When buying insurance, always be careful to fill out the application as completely and honestly as you can. Don't "fudge," that could be disastrous later if you have a claim. Make sure you get input from the agent or broker on what belongs in the application and when in doubt, disclose. Also, keep a written record of all your dealings with the insurance company. That way if there's ever a dispute, it's more than your word against theirs.

In many states, there are legal remedies if your insurance company is dishonest. But this is an

area where an ounce of prevention can equal a pound of cure. While insurance bad faith law might provide a remedy if you suffer harm, you are far better off being a smart consumer.

Bill Daniels regularly publishes a variety of articles and videos to keep you abreast of legal developments and case law that affect our society.

For additional reading and learning:

[Five Fatal Bad Faith Mistakes and How To Avoid Them](#). The law right now is probably as favorable for carriers as it's been in several generations.

[Searching For A Higher Duty](#). Using breach of fiduciary duty when a carrier won't admit its mistake.

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